



Testimony of

**Christopher Koch**  
President & CEO of the

**World Shipping Council**  
Regarding

**H.R. 4954, "The SAFE Port Act"**

Before the

**House Committee on Homeland Security**

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Mr. Chairman and members of the Committee, thank you for the opportunity to testify before you today. My name is Christopher Koch. I am President and CEO of the World Shipping Council, a non-profit trade association representing international ocean carriers, established to address public policy issues of interest and importance to the international liner shipping industry. The Council's members include the full spectrum of ocean common carriers, from large global operators to trade-specific niche carriers, offering container, roll-on roll-off, car carrier and other international transportation services. They carry roughly 93% of the United States' imports and exports transported by the international liner shipping industry, or more than \$500 billion worth of American foreign commerce per year.<sup>1</sup>

I also serve as Chairman of the Department of Homeland Security's National Maritime Security Advisory Committee, as a member of the Departments of Homeland Security's and Treasury's Advisory Committee on Commercial Operations of Customs and Border Protection (COAC), and on the Department of Transportation's Marine Transportation System National Advisory Council. It is a pleasure to be here today.

In 2005, American businesses imported roughly 11 million loaded cargo containers into the United States. The liner shipping industry transports on average about \$1.5 billion worth of containerized goods through U.S. ports each day. In 2006, at projected trade growth rates, the industry will handle roughly 12 million U.S. import

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<sup>1</sup> A list of the Council's members can be found on the Council's website at [www.worldshipping.org](http://www.worldshipping.org).

container loads. And these trade growth trends are expected to continue. The demands on all parties in the transportation sector to handle these large cargo volumes efficiently is both a major challenge and very important to the American economy. At the same time that the industry is addressing the issues involved in efficiently moving over 11 million U.S. import containers this year, we also must continue to enhance maritime security, and do so in a way that does not unreasonably hamper commerce.

The Department of Homeland Security (DHS) has stated that there are no known credible threats that indicate terrorists are planning to infiltrate or attack the United States via maritime shipping containers. At the same time, America's supply chains extend to tens of thousands of different points around the world, and the potential vulnerability of containerized transportation requires the development and implementation of prudent security measures. Like many parts of our society, we thus confront an unknown threat, but a known vulnerability.

The DHS maritime security strategy involves many different, but complementary, pieces. It includes the establishment of *vessel security* plans for all arriving vessels pursuant to the International Ship & Port Facility Security Code (ISPS Code) and the Maritime Transportation Security Act (MTSA). It includes the establishment of U.S. *port facility security* plans and area maritime security plans pursuant to the ISPS Code and MTSA, and the establishment by the Coast Guard of the International Port Security Program (IPSP) pursuant to which the Coast Guard visits foreign ports and terminals to share and align security practices and assess compliance with the ISPS Code. It includes the Maritime Domain Awareness program, under which DHS acquires enhanced information about vessel movements and deploys various technologies for better maritime surveillance. The challenge of effectively patrolling all the coasts and waters of the United States is obviously a large one. The MTSA directives and DHS efforts also include enhanced security for *personnel* working in the maritime area. And last, but certainly not least, these directives and efforts include an array of initiatives to enhance *cargo security*, including: a) cargo security risk assessment screening, b) the Container Security Initiative, c) the Customs' Trade Partnership Against Terrorism (C-TPAT) Program, and d) container inspection technology deployment.

## I. Introductory Comments on the Current Maritime Security Strategy

The government's multi-layer security strategy is fundamentally sound, and seeks to address cargo and maritime security on an international basis as early as is practicable. It does not wait to address security questions for the first time when a ship and its cargo arrive at a U.S. port. Implementation of the strategy, however, can be further developed and strengthened.

It is very important to recognize that Congress has already enacted a broad, coherent statutory framework and set of authorities to address the maritime and cargo security challenge. The Maritime Transportation Security Act and the Trade Act, both enacted into law in 2002, address many of the issues under current discussion and in H.R. 4954 in a satisfactory manner. As a result, we recommend that new statutory provisions

should be enacted when needed to fill specific gaps or to direct specific, needed actions. Care should be exercised not to add unnecessary layers of general statutory provisions on top of existing statutory authorities.

The maritime security challenge is to build on the fundamentally sound strategic framework that DHS has developed and to continue to make improvements on what has been started. Specifically, we believe that priority DHS consideration should be given to:

1. Improving the cargo shipment data collected and analyzed by Customs and Border Protection's (CBP) National Targeting Center before vessel loading. If cargo risk assessment is to be a cornerstone of DHS policy -- which we believe is a correct approach, and cargo security screening is to be performed before the cargo is loaded onto a ship destined for the U.S. -- which we also believe is a correct approach, it should be using more complete cargo shipment data to perform the risk assessment than only the ocean carriers' bills of lading;
2. Continue expanding international cooperation through the Container Security Initiative network;
3. Continuing to improve and strengthen the C-TPAT program;
4. Promulgating regulations to implement the MTSA mandate of maritime Transportation Worker Identification Cards for U.S. port workers; and
5. Undertaking a priority examination of the merits and feasibility of the Integrated Container Inspection System (ICIS) pilot project, the issues that would be involved in the widespread application of ICIS-type container inspection and radiation screening equipment, and the interface and use of such equipment and its results by Customs authorities.

## II. Foreign Investment in the Maritime Industry and Infrastructure

Because the recent controversy in Congress over Dubai Ports World's acquisition of P&O Ports raised the issue of foreign investment in the maritime and port business, some comments on that issue are in order, particularly because there are bills introduced in the House to prevent foreign investment in the nation's maritime infrastructure.

Stevedoring and marine terminal operations are a service industry that is open to foreign investment. Billions of dollars of foreign investment has been made in the U.S. over recent years in this sector, and that investment has contributed substantially to a transportation infrastructure that is critical to moving America's commerce efficiently and reliably. The investment has come from Japanese, South Korean, Danish, British, Chinese, French, Taiwanese, and Singaporean businesses, just as American companies have been allowed to invest in marine terminal and stevedoring businesses in foreign countries.

The substantial majority of American containerized commerce is handled in U.S. ports by marine terminal operators that are subsidiaries or affiliates of foreign enterprises, usually the container shipping lines themselves. This is an international, highly competitive industry, providing hundreds of thousands of American jobs. The United States depends on it, and it in turn has served the needs of American commerce well, adding capacity and service as the needs of American exporters and importers have grown.

An important element of the U.S. government's position in international trade negotiations for many years, under both Democrat and Republican administrations, has been the importance of securing the ability of international investment to flow into various international service industries. It is a principle of substantial importance to many sectors of the American economy. There are many billions of dollars of American service industry investments around the world, including banking, insurance, food service, accounting, construction, energy, engineering, etc.

U.S. marine terminal facilities, whether operated by U.S. or non-U.S. owned companies, must and do comply with all the government's applicable security requirements. There is no evidence that terminal facilities' operations conducted by foreign controlled companies are any less secure, or in any way less compliant with security regulations, or in any way less cooperative with U.S. government security authorities than U.S. controlled companies. In fact, these companies work closely and cooperatively with the Coast Guard, CBP, the U.S. military, and other U.S. law enforcement agencies.

This is an international industry and has been for many years. Less than 3% of American international maritime commerce is transported on U.S.-*flag* ships, and foreign owned carriers are responsible for the capital investment in most of those ships. American *owned* liner shipping companies transport roughly 5% of the trade, and their vessels are largely foreign flag.

The leading American liner shipping companies, such as Sea-Land, APL, and Lykes, were sold by their U.S. owners years ago to foreign companies, and neither the Executive Branch nor an informed Congress did anything to protest or stop this change. Foreign ownership of shipping companies and U.S. marine terminal operating companies has been part of our nation's economic make-up for years. We live in a global economy and society where it is simply a fact that most of this important component of the nation's "critical infrastructure"<sup>2</sup> is owned and operated by foreign companies. One might wish

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<sup>2</sup> The liner shipping industry and marine terminal operators logically fall within the most commonly used definitions of "critical infrastructure". See, e.g., the National Infrastructure Protection Plan definition: "Systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such assets, systems, networks or functions would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters." The liner shipping industry transports roughly 11 million containers of imported goods per year to American importers and consumers, 7 million containers of exported goods from American businesses, and important government and military cargoes. The value of this goods movement is over \$1.5 billion per day, and these

American companies were dominant industry actors, but they aren't. Further, U.S. financial markets have demonstrated little enthusiasm for international liner shipping due to its high capital investment requirements, cyclicalities, and intense competition, as well as the fact that other nations' tax laws are more favorable to shipping.

The U.S. has been well served by the investment capital these foreign companies have made and continue to make in serving U.S. commerce.<sup>3</sup> The United States' economy and U.S. importers and exporters would be significantly harmed by policies that discourage or prevent this foreign investment. This is particularly true now with trade volumes pressing U.S. transportation infrastructure's capacity, and with ports, state governments, and the federal government all searching for additional investment capital to meet the nation's maritime transportation infrastructure needs and to keep American commerce competitive in the global market.

This nation is not at risk from foreign capital being invested in it, but it would be at risk if it were to discourage continued foreign investment in the maritime industry serving its needs.

There is another aspect to the recent Congressional interest in foreign ownership of marine terminal operators that has been myopic. In addition to the Dubai Ports World-P&O Ports transaction being mischaracterized as a purchase of U.S. ports – which it was not, and in addition to the fact that no facts were provided that showed DPW to be a security risk as a terminal operator – and in fact Dubai was shown to be an important ally and supporter of U.S. efforts in the Middle East and one which is trusted by the U.S. military to service its vessels and cargo. The entire controversy ignored the fact that, even with the six U.S. marine terminals being spun off from this purchase, DPW will be the third largest marine terminal operator in the world, and will be loading cargo onto vessels destined for the United States from its facilities in Australia, Europe, Asia and the Caribbean every day.

Wouldn't it make sense for the U.S. security strategy to try to include companies like DPW as partners of the government's efforts to secure international commerce? DPW is a knowledgeable and professional actor, both globally and in a particularly relevant part of the world. Instead, the Congress just told the third largest terminal operator in the world that it did not trust them, when the facts presented did not justify such a judgment of the company. The unfortunate treatment of this transaction should be kept confined to the narrowest possible application.

The international shipping industry and America's foreign commerce are global enterprises. Devising and implementing effective maritime security enhancements requires the participation and effort of many governments and many foreign owned and

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supply chains connect the American economy to the rest of the world. The industry that is responsible for this transportation service is critical infrastructure.

<sup>3</sup> The hundreds of millions of dollars presently being invested in Portsmouth, Virginia by Maersk, in Mobile, Alabama by Maersk and CMA-CGM, and in Jacksonville, Florida by MOL are just three examples of this ongoing commitment to the construction of improved U.S. transportation infrastructure.

operated business enterprises. The U.S. government does not have the capability or the jurisdiction to do this by itself. It needs the cooperation and assistance of foreign governments and foreign owned businesses. The Coast Guard and Customs and Border Protection fully recognize this and are working to build and enhance global security strategies. Protectionism and unfounded criticism of foreign owned enterprises will impair those efforts and will impair security enhancement efforts.

### III. Comments on H.R. 4954, the SAFE Port Act

We commend the Committee for its continued interest in maritime and cargo security, and for its interest in trying to fashion something that may be of constructive value out of the recent, unproductive controversy over the Dubai World Ports issue. We can provide the Committee staff with detailed section-by-section comments at a later time, and hope the following more general comments on the legislation will be helpful.

**Section 4. Strategic Plan:** It is appropriate for Congress to instruct DHS to develop a strategic plan for the security of the maritime transportation system, but it has already done so in MTSA (46 U.S.C. 70103). DHS has produced and continues to produce strategic plans for maritime security and infrastructure protection. Last fall, DHS issued its National Strategy for Maritime Security, and in addition is producing eight supporting strategic plans, including: the National Plan to Achieve Domain Awareness, the Global Maritime Intelligence Integration Plan, the Interim Maritime Operational Threat Response Plan, the International Outreach and Coordination Strategy, the Maritime Infrastructure Recovery Plan, the Maritime Transportation System Security Plan, the Maritime Commerce Security Plan, and the Domestic Outreach Plan. The Coast Guard also recently completed the Maritime Subsector plan component of the National Infrastructure Protection Plan.

There are plenty of strategic plans. We do not see a need for Section 4. Maritime security enhancements are more likely to come from implementing new security measures than instructing the bureaucracy to produce more strategic planning documents.

**Section 5. Protocols for the Resumption of Trade:** The Council supports this section's instruction that DHS develop protocols for the resumption of trade in the event of a transportation security incident, but notes that, based on our discussions with CBP and the Coast Guard on this issue, the issues involved are often highly dependent on the facts of the situation. One very important issue that should be made explicit, however, is that, once the federal government has issued its security approval for foreign or interstate commerce to move, state and local governments are preempted from second-guessing or trying to overrule or interfere with those federal decisions.

**Section 6. Improvements to Automated Targeting System:** This is perhaps the most important issue addressed by the bill. The existing and statutorily mandated strategy of the U.S. government is to conduct a security screening of all containerized cargo shipments *before* they are loaded on a U.S. bound vessel in a foreign port. The

correct time and place for the cargo security screening is before the containers are loaded on a ship.

In order to be able to perform this advance security screening, CBP implemented the “24 Hour Rule” in early 2003. Under this rule, carriers are required to provide CBP with their cargo manifest information regarding all containerized cargo shipments at least 24 hours before those containers are loaded onto the vessel in a foreign port. CBP, at its National Targeting Center in Northern Virginia, then screens every shipment using its Automated Targeting System (ATS), which also uses various sources of intelligence information, to determine which containers should not be loaded aboard the vessel at the foreign port, which containers need to be inspected at either the foreign port or the U.S. discharge port, and which containers are considered low-risk and able to be transported expeditiously and without further review. Every container shipment loaded on a vessel bound for the U.S. is screened through this system before vessel loading at the foreign port. Customs may issue the carrier a “Do Not Load” message on any container that is so screened if it has security concerns that need to be addressed.

The DHS strategy is thus based on its performance of a security *screening* of relevant cargo shipment data for 100% of all containerized cargo shipments before vessel loading, and subsequent *inspections* of 100% of those containers that raise security issues after initial screening. Today, we understand that CBP inspects roughly 5.5-6% of all inbound containers (roughly 600,000 containers per year), using either X-ray or gamma ray technology (or both) or by physical devanning of the cargo.

We all have a strong interest in the government performing as effective a security screening as possible before vessel loading. Experience also shows that substantial disruptions to commerce can be avoided if security questions relating to a cargo shipment have been addressed prior to a vessel being loaded. Not only is credible advance cargo security screening necessary to the effort to try to prevent a cargo security incident, but it is necessary for any reasonable contingency planning or incident recovery strategy. Today, while the ATS uses various sources of data, the only data that the commercial sector is required to provide to CBP for each shipment for the before-vessel-loading security screening is the ocean carrier’s bill of lading/manifest data filed under the 24 Hour Rule. This was a good start, but carriers’ manifest data has limitations.

Cargo manifest data should be supplemented in order to provide better security risk assessment capabilities. *Currently, there is no data that is required to be filed into ATS by the U.S. importer or the foreign exporter that can be used in the pre-vessel loading security screening process.* This occurs, even though these parties possess shipment data that government officials believe would have security risk assessment relevance that is not available in the carriers’ manifest filings, and notwithstanding the fact that the law requires the cargo security screening and evaluation system to be conducted “prior to loading in a foreign port”. Today, cargo entry data is required to be filed with CBP by the importer, *but* is not required to be filed until after the cargo shipment is in the United States, often at its inland destination – too late to be used for security screening purposes.

In September 2004, the COAC Maritime Transportation Security Act Advisory Subcommittee submitted to DHS a recommendation that importers should provide CBP with the following data elements before vessel loading:

1. Better cargo description (carriers' manifest data is not always specific or precise)
2. Party that is selling the goods to the importer
3. Party that is purchasing the goods
4. Point of origin of the goods
5. Country from which the goods are exported
6. Ultimate consignee
7. Exporter representative
8. Name of broker (would seem relevant for security check.), and
9. Origin of container shipment – the name and address of the business where the container was stuffed, which is often not available from an ocean carrier's bill of lading.

An ocean carrier's bill of lading by itself is not sufficient for cargo security screening. Risk assessment is being conducted on the basis of commercial documents that may not inform DHS of where the goods are actually coming from, who is buying the goods, who is selling the goods, or the name and address of the party that stuffed the container. It would seem logical that the earlier filing of these shipment data elements would improve CBP's cargo security screening capabilities.

The government needs to decide what additional advance cargo shipment information it needs to better perform pre-vessel loading cargo screening. It may include the data elements recommended above, or it may include additional desired data elements beyond that list. While this is not a simple task, it is important that progress be made on deciding what additional data should be obtained for this purpose, and it is important that the cargo interests, and not just carriers, be required to provide the relevant data in time to do the advance security screening before vessel loading in the foreign port.

The need to enhance the data used in the ATS has been recognized by DHS, by the Government Accountability Office, by CBP, by importers, and by carriers. It is important to note that MTSA has already established that the maritime cargo security screening system is governed by the "24 Hour Rule" strategy of "establishing standards and procedures for screening and evaluating cargo *prior to loading in a foreign port* for shipment to the United States." (46 U.S.C. 70116(b)(1)). Further, Section 343 of the Trade Act of 2002 *already* specifically authorizes and instructs DHS to establish mandatory advanced electronic information for cargo security screening, including the quite correct directive that "the requirement to provide particular information shall be imposed on the party most likely to have direct knowledge of that information".

What is needed is for DHS to develop and propose new regulations identifying and requiring the next generation of data for the ATS. While a new statute should not be necessary to achieve this, we support Section 6's effort to require such action, *but only if* its language is clarified that the additional cargo data is to be obtained *prior to vessel*



*loading, not* “prior to importation”. It is essential that this bill be consistent with the established before vessel loading security screening strategy of MTSA, as well as Section 343 of the Trade Act.

**Section 7. Uniform Data for Government-Wide Usage** We support this provision, and note that Congress has appropriated hundreds of millions of dollars on the Automated Commercial Environment (ACE) system, which will hopefully meet this section’s goals.

**Section 8. Verification for Individuals With Access to Secure Areas of Seaports** We fully support the Committee’s efforts to expedite implementation of the MTSA requirements to establish a Transport Worker Identification Card (TWIC) program, although another statutory directive to DHS to implement the existing MTSA directive seems unnecessary. As to Section 8’s “interim” initiative to have DHS compare transport workers with unescorted access to secure seaport facilities against terrorist watch lists, we are fully supportive in concept, but unclear how this process would actually work. We would welcome the opportunity to work with the Committee staff to better understand this.

**Section 10. Container Security Standards and Verification Procedures** Section 10 would require DHS to establish seal verification requirements within 180 days of enactment. This is an issue that is already addressed by MTSA (46 U.S.C. 70116). DHS and industry representatives have been working on it for some time. The challenges are several. First, it has become clear that without electronic seals and a global RFID e-seal reading infrastructure at ports around the world, such a requirement is not practical. Carriers themselves cannot verify seals before vessel loading; they will depend on foreign terminal operators at ports around the world to undertake such a task. It is for that reason that the Council and its member lines have been working hard to develop an international e-seal standard at the International Standards Organization. For many reasons, such a standard remains elusive. It is clear that implementation of such technology will take significantly more time. Second, an e-seal system and infrastructure would be very expensive, and security experts increasingly question whether such seals provide sufficient security benefits to justify the costs, particularly if more advanced, effective technology can be developed. Third, seal verification anomalies would be frequent, and both CBP and the industry have concerns that addressing the many thousands of expected anomalies, which are likely to have little national security implications, could be a difficult burden on the agency and commerce. Rather than adding another statutory layer on top of MTSA, we recommend the Committee obtain a full briefing on these issues from CBP and the industry. The information and issues involved are also relevant to Section 15 of the bill and its call for further research, development, testing and evaluation of technologies.

**Section 11. Radiation Detection and Radiation Safety** The Council supports this section, and would also observe that the DHS strategy on this issue should consider, not only the deployment of such radiation detection equipment at U.S. ports of entry, but how the “ICIS concept”, with its possible deployment of such equipment overseas by

marine terminal operating companies, may fit into the government's strategy. This topic is discussed in greater detail in the next section of our testimony.

**Section 13. C-TPAT** Like Section 12's treatment of CSI, it is appropriate to create a statutory foundation for this CBP program. We have several comments on this section. First, the Committee should carefully consider how far back in a supply chain it intends to hold a C-TPAT importer accountable. The bill's definition of "point of origin", going back to the point where goods are assembled into the "smallest exterior packaging unit", may be feasible for some importers that order directly from a foreign manufacturer, but would probably be impossible for importers of many commodities and traded goods, and could be impossible for large importers that use many suppliers.

Second, we note that in proscribing the Tier Three program for C-TPAT importers, the bill would encourage "container security devices" (CSDs). We believe CSDs are not yet appropriate for inclusion in the program for the following reasons: 1) Neither the bill, DHS or the trade have developed clear definitions of what the requirements for such devices should be. Depending on who you talk to, it might include seals, electronic seals, the CSDs that were recently tested by CBP in its pilot tests, or "Advanced CSDs" being tested by Science and Technology within DHS. Do they have to have sensors that detect intrusion into the container via one door, via either door, through the walls? Do they have to detect conditions other than intrusion? 2) The possible technologies vary from using RFID (although there is not agreement on what radio frequency should be used for RFID) to wireless/satellite devices. 3) To be effective and deployed on a commercial basis, RFID CSDs would require a global reading infrastructure to be built at ports around the world. That infrastructure does not presently exist. 4) There is no agreement on who would operate and control the CSD reading infrastructure or the information generated if RFID technology is used. 5) There is no agreement on how a marine terminal would know that a container arriving into it was supposed to have a CSD on it to be read. 6) There is no protocol in place for how to address anomaly readings or alerts that would be generated from CSDs. 7) There is no international standard for CSDs, and an internationally usable and accepted standard would be essential. The Council has been working diligently for several years at the International Standards Organization on the effort to establish a standard for electronic seals, and we have not yet succeeded. The process for establishing such a standard for CSDs has not even begun. 8) Many CSDs being discussed have the ability for persons to change or write new information into them after the container is closed. The security questions arising from the ability to write new information into such devices have not been resolved. 9) Acceptable error rates have not been satisfactorily established.

CSDs have a potentially important role for future container security enhancement, but they are not yet ready for inclusion as an element of the Tier Three importer concept.

#### **IV. Comments on H.R. 4899, the "Sail Only if Scanned Act of 2006"**

While this hearing is on H.R.4954, H.R. 4899 was offered as an amendment to this bill in Subcommittee and defeated. Because it appears possible that H.R. 4899 will

be offered again as an amendment to H.R. 4954, and because it was defeated by only an 8-6 vote, some comments on this bill are offered for the Committee's consideration.

We respectfully submit that H.R. 4899 is poorly drafted and raises many unanswered questions. Even more importantly, if it were actually enacted into law and implemented, it would have a devastating impact on American commerce and the American economy. Some comments and questions on this bill follow.

First, the stated intent of this bill is to require every container of cargo to be scanned before being loaded onto a vessel bound for the U.S., and further that, if the container has not been scanned in the foreign port of loading in accordance with the terms of bill, it cannot be loaded aboard a vessel bound for the U.S. (ergo, the "Sail Only if Scanned Act") This would be impossible to implement, at least in the time frame and under the terms of this bill, because the equipment, systems, operating protocols, and necessary international agreements are not in place. If H.R. 4899 were enacted into law and enforced, it would bring America's containerized foreign trade to a halt.

Second, the bill requires that each container be "*scanned*" with equipment that meets certain standards, but it does not make it clear what "scan" means. Does it mean radiation scanning, or does it *also* mean gamma ray or X-ray non-intrusive inspection image scanning (NII)? Obviously, it is important to be clear about what is being required. These are two different technologies and processes.

Third, the bill requires that each container be scanned and that a copy of the scan be provided to the Secretary, but it does not say who is to do the scanning. We believe the bill's authors should clarify whether the bill is proposing that the scan be done by the marine terminal operator that is loading the vessel, or whether the scanning must be performed by foreign governmental authorities at the particular port of loading. As the bill provides no funding for the implementation of this overseas container scanning requirement, we presume that the authors intend the cost of equipment acquisition and system operation will be borne by whomever they identify as the parties who are expected to perform the scanning task. Clarity on this point is very important.

Fourth, the bill states containers must be scanned before they are loaded onto vessels bound for the U.S., and a copies of the scans must be sent to DHS, but it fails to say when the scans must be sent to DHS, how they would be sent, or what DHS is expected to do with them when it receives them and within what time frame. A scan that is not analyzed or acted on is without value.

Fifth, the bill would require DHS to establish scanning equipment technology standards, and then require that every major foreign government or marine terminal operator in the world adopt that standard, buy, install and operate that equipment, and apply it to all of their exports to the U.S. within 12 months.

Sixth, we don't yet have a technology standard for RFID electronic seals, yet the bill proposes changing the emerging e-seal technology from RFID to satellite technology.

Seventh, if the bill became law, it would almost certainly invite other countries to establish reciprocal requirements for U.S. exports, so that U.S. goods could not be exported, unless the U.S. government or U.S. terminal operators had scanned the container before vessel loading in a U.S. port, used technology that met a foreign government's standards, and sent the scan to the foreign government. The bill's proponents may wish to consider how would they would feel if the Chinese or Japanese or British governments said there can be no U.S. exports to their country unless the U.S. installs and operates container inspection equipment, which meets Chinese or Japanese or British government technology standards, and sends the scan images to their government.

Finally, we have tried to consider the cost of this requirement, but it is difficult to assess the cost of complying when it is not clear if the "scan" is intended to require radiation scanning or both radiation scanning and NII imaging analysis, and when the necessary equipment and systems simply are not in place to perform the task. Someday in the future, if the "ICIS concept" is validated and implemented, there may be systems in place to provide advance, pre-vessel loading screening for a large percentage of American containerized commerce, but it would be very difficult to ever reach 100%. At present the systems simply are not in place to do this. To estimate costs, one might consider that the average cost of an NII container inspection in a U.S. port seems to range from \$100 to \$125 per container, with a 1-3 day delay in releasing the cargo. The more containers inspected, the higher the congestion, terminal, personnel, and operating costs. A linear projection of \$125 per container to 11 million import containers would exceed \$1.3 billion, but that projection would not even begin to consider the "chaos" costs that would ensue in port facilities trying to perform such a task, nor would it consider the costs of the likely application of this requirement to U.S. export containers, nor would it consider the enormous costs of the delayed delivery or non-delivery of commerce. Suffice it to say that compliance and consequential costs of the bill would be staggering.

Container inspection technologies, including non-intrusive inspection (NII) equipment and radiation screening equipment, clearly have an essential and growing role in increasing both the efficiency of inspecting containerized cargo shipments and the number of containers that can be inspected. Container inspection technology, particularly NII equipment, is of substantial interest because, unlike so many other technologies, it helps address the container security question of paramount importance, namely: "What's in the box?"

The Committee's limitation on the length of testimony does not allow a fuller description of these issues in this forum, but the Committee is invited to review the Council's March 30<sup>th</sup> testimony before the Permanent Subcommittee on Investigations of the Senate Committee on Homeland Security and Governmental Affairs for a fuller discussion of these important issues, including a discussion of the Hong Kong pilot project called the Integrated Container Inspection System or "ICIS concept".<sup>4</sup>

We thank the Committee for the opportunity to present these views.

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<sup>4</sup> That testimony is available on the WSC website at [www.worldshipping.org](http://www.worldshipping.org)